IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 11821 of 2005

Between:

T.S.H.H.R.Laxman, S/o.Krishna Murthy,
R/o.Uttarapalem, Veeravasaram Mandal.
West Godavari District.

..... PETITIONER

AND

1 The Govt. of A.P. rep.by its Prl.Secretary, Revenue (Endowments

Department) Secretariat, Hyderabad.
2 The Commissiner of Endowments, Govt. of A.P. Endowments Department,

Bogullakunta, Hyderabad.
3 The Kesava Swamy Vari Devasthanam rep.by its Executive officer, Tholeru

Group of temples,Tholeru Village, Veeravasaram Mandal, West Godavari

District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue order or orders, direction or directions, writ of writs, particularly one the nature of writ of Mandamus declaring the action of the 3rd respondent in issuing notice No.1/2005, dt.10-5-2005 in Form 1 under Rule 5(1) of the Rules as unconstitutional, ultravirus of the sec.83 of the Act 30 of 1987 and set aside the same and declare the proposed action of the respondents in evicting the petitioner from the lands to the extent of Ac.2.78 cents situated in R.S.No.222/1 & 112/3, of Tholeru village, Veeravasaram Mandal, West Godavari District, as illegal, arbitrary and violative of fundamental rights guaranteed under the Constitution of India, consequently direct the respondents not to evict the petitioner from the above said lands and to pass

such other orders as are necessary in the interest of justice.

Counsel for the Petitioner:MR.K.L.N.SWAMY

Counsel for the Respondent Nos.1 and 2: GP FOR ENDOWMENTS

Counsel for R.3 : Smt. Indrani.

The Court made the following :

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ORAL ORDER:

Writ Petition is filed against a notice, dated 10-5-2005 issued by the 3rd respondent under Rule 5(1) of the A.P. Charitable and Hindu Religious Institutions and Endowments Rules, 2003, intimating the petitioner that by operation of the declaration in Section 82 (1) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Dowments Act, 1987 (A.P. Act No.30 of 1987) (for short "the Act"), the subsisting lease of the petitioner in respect of the specified agricultural land belonging to the 3rd respondent-Devastanam stands cancelled and that the leasehold rights in respect of the said lands are to be leased out in accordance with Rules. This notice also intimates the petitioner that he should handover the possession of the lands which are in his possession, within 30 days of the receipt of the notice and pay the rental dues up to the date, failing which he would be evicted invoking the provisions under Sections 84, 85 and 86 of the said Act, treating him as an encroacher in an order passed under Section 83(4) of the Act. Petitioner states that the 3rd respondent is not the authority competent to pass an order of eviction under Section 83, treating him as an encroacher and that the said power belongs to the Deputy Commissioner. On this ground, the impugned notice is assailed.

The grievance and the assumption on the basis of which the writ petition is filed, is misconceived. The notice issued by the 3rd

respondent under Section 5 (1) of the Rules is not a notice of eviction. It is merely an intimation sensitizing the petitioner as to the legislative declaration of termination of the lease vide Section 82 (1) of the Act, and the consequences that follow should the petitioner fail to vacate the agricultural lands he is in possession of under an earlier and determined lease and on failing to deliver

vacant possession of the land to 3rd respondent-Devastanam. The notice issued by the 3rd respondent clearly and unequivocally clarifies that proceedings for the petitioner's eviction would be initiated under the provisions of Sections 84, 85 and 86of the Act treating him as an encroacher in an order to be passed under Section 83(4) of the Act, should he fail to deliver vacant possession of the land to the 3rd respondent-Devastanam. The notice issued is to inform the petitioner about the relevant facts and potential legal consequences and is not *per se* an order evicting him from the premises. Orders of eviction would be issued by the competent authority and following the due process of law under Section 83 (4) of the Act only in the event the petitioner fails to deliver vacant possession as intimated in the 3rd respondent's notice.

On the above analysis, in the considered view of this Court, the notice issued by the 3rd respondent *per se* does not prejudice the petitioner. Therefore, this Court finds no present cause of action to maintain the writ petition. The writ petition is pre-mature. It is accordingly dismissed. As and when concrete proceedings are initiated for his eviction under Section 83 (4) of the Act, the petitioner is at liberty to pursue his remedies before the appropriate authorities or forum. There shall be no order as to costs.

SMR 07-06-2005

To

1 Prl.Secretary, The Govt. of A.P., Revenue (Endowments

Department) Secretariat, Hyderabad.

2 The Commissiner of Endowments, Govt. of A.P. Endowments Department,

Bogullakunta, Hyderabad.

3 Executive officer, The Kesava Swamy Vari Devasthanam, Tholeru

Group of temples,Tholeru Village, Veeravasaram Mandal, West Godavari

District.

4) 2 CD copies

5) 1 CC to MR.SWAMY

6) 2 CCs to GP for Endowments, High Court Buildings, Hyderabad.

*Form-NIC-OGS/WP{**JA**}*

THE HON'BLE MR. JUSTICE GODA RAGHURAM

W.P.No.11821 of 2005

Dated: 7th June, 2005